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Appeal Brief

AF-3621 ZZW

Application Number	09/989,932
Filing Date	11/21/2001
First Inventor	Sy, Bon K.
Examiner Name	BACKER, FIRMIN
Art Unit	3621
Docket Number	BKS-834

DATE OF DEPOSIT: 04/03/2006

TITLE OF CASE:

TIME-BASED SOFTWARE LICENSING APPROACH

The following documents are enclosed:

Certificate of Mailing (1 page)

Response (2 pages)

Appeal Package

Appeal Brief (23 pages)

EXHIBIT A: Office Action of 10/04/2005 (9 pages)

EXHIBIT B: US Patent 6,334,118 (14 pages)

EXHIBIT C: US Patent Application 2002/0162008A1 (16 pages)

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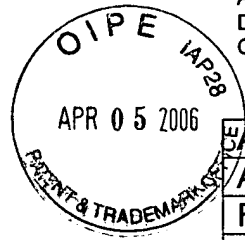
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Application No.: 09/989,932
Date of Appeal Brief: 1/20/2006
Concerning the Office Action of: 10/04/2005



Application No.	09/989,932
Applicant	Sy, Bon K.
Filed	11/21/201
Title	TIME-BASED SOFTWARE LICENSING APPROACH
TC/A.U.	3621
Examiner	Backer, Firmin
Docket No.	BKS-834

Honorable Commissioner for Patents
P.O. Box 1450
5 Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

10 This Appeal Brief concerns the Examiner's Final Office Action of
October 4, 2005 finally rejecting claims 1-4, 6-14, 16-23 and 25-32 for
U.S.S.N. 09/989,932. Consideration by the Board is respectfully requested.

15

1. REAL PARTY IN INTEREST

The real party in interest for this application is the inventor, Bon K. Sy. The application has not been assigned to a third party, nor is there an obligation
5 to make an assignment to such a third party.

2. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to the instant application.

3. STATUS OF CLAIMS

10 Claims 1-4, 6-14, 16-23 and 25-32 have been rejected. Claims 5, 15, and 24 have been canceled. No claims have been allowed. Claims 1-4, 6-14, 16-23 and 25-32 are the subject of this appeal. Appellant notes that, contrary to the October 4, 2005 Office Action, claim 16 is still pending in the application.

4. STATUS OF AMENDMENTS

15 The subject utility patent application was filed on November 21, 2001. A Non-Final Office Action was mailed on May 18, 2004. Applicant responded by
20 submitting an Amendment on August 17, 2004. A Final Rejection was mailed on November 5, 2004. The applicant submitted an Amendment after Final on January 24, 2005 which was denied entry (see Advisory Action of February 28, 2005). A Request for Continued Examination (RCE) was transmitted on April 18, 2005 and, as a result of this RCE, the January 24, 2005 Amendment was
25 entered. The Examiner entered a second, Non-Final Office Action on May 25, 2005. Applicant responded with an Amended mailed on July 26, 2005. The Examiner mailed a second, Final-Office Action on October 4, 2005. In response, the applicant filed a Notice of Appeal on December 5, 2005. This Appeal Brief is filed to supplement the aforementioned Notice of Appeal. No Amendment after
30 the second, Final Office Action of October 4, 2005 was submitted by the appellant.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The invention generally relates to a method for licensing time-based software over a network wherein a time-based software module is loaded onto a client machine, connected to an authentication server to verify data on a user account, and, if the verification is successful, activates the software for a certain period of time. The software module can then disconnect from the server and the user is free to utilize the software for the certain period of time without further connecting to the server. Should the user utilize less than all of the certain period of time, the user may initiate a reconnection to the server, and thereafter credit back any unused time.

The first embodiment is described in the specification beginning on page 7 and is claimed in claim 1 and its dependent claims. Reference is made to the appended claims. The invention will now be summarized with reference to the specification as filed. Claim 1 recites a method for licensing time-based software comprising the steps of loading time-based software onto a client machine (page 7, beginning at line 21), wherein said time-based software requests user information including an amount of time requested by the user for using said time-based software (page 8, beginning at line 14) and connected to an authentication server through a network (page 8, beginning at line 18) and submits said user information to the authentication server (page 8, line 19); determining if the user is approved (page 9, line 5), wherein if the user is approved, further comprising the steps of: the authentication server activating the time-based software for an amount of time approved (page 9, beginning at line 17); thereafter disconnecting from said authentication server, (page 9, beginning at line 19, see also page 4, line 13), wherein if the user uses the time-based software for less than the amount of time approved, the user crediting any remaining amount of time back to the authentication server (page 9, beginning at line 22).

The second embodiment is described in the specification beginning on page 7 and is claimed in claim 12 and its dependent claims. Reference is made to the appended claims. The invention will now be summarized with reference to

the specification as filed. Claim 12 recites a program storage device, tangibly embodying a program of instructions of executing a method for licensing time-based software comprising the steps of loading time-based software onto a client machine (page 7, beginning at line 21), wherein said time-based software requests user information including an amount of time requested by the user for using said time-based software (page 8, beginning at line 14) and connected to an authentication server through a network (page 8, beginning at line 18) and submits said user information to the authentication server (page 8, line 19); determining if the user is approved (page 9, line 5), wherein if the user is approved, further comprising the steps of: the authentication server activating the time-based software for an amount of time approved (page 9, beginning at line 17); thereafter disconnecting from said authentication server, (page 9, beginning at line 19, see also page 4, line 13), wherein if the user uses the time-based software for less than the amount of time approved, the user crediting any remaining amount of time back to the authentication server (page 9, beginning at line 22).

The third embodiment is described in the specification beginning on page 7 and is claimed in claim 22 and its dependent claims. Reference is made to the appended claims. Claim 22 recites a system for licensing time-based software comprising: a time-based software loaded onto a client machine (page 7, line 21) for requesting user information from a user including an amount of time requested by the user for using said time-based software (page 8, line 14); and an authentication server for connecting to said time-based software (page 8, line 18) and receiving said user information from said time-based software (page 8, line 19), wherein said authentication server determines if the user is approved (page 9, line 5), wherein if the user is approved, the authentication server activates the time-based software for an amount of time requested (page 9, line 17); thereafter disconnecting the time-based software from the authentication server (page 9, line 19) wherein the time-based software remains activated for the amount of time requested while disconnected from the authentication server (page 4, line 13, see also page 9, line 19), wherein if the user uses the time-

based software for less than the amount of time requested, any remaining amount of time is credited back to the authentication server by the user reconnecting the time-based software to the authentication server (page 9, line 23, see also page 10, line 21) and crediting the remaining amount of time (page 9, line 22).

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1 - Whether claims 1-4, 6-14, and 16-21 are unpatentable under 35 U.S.C. 103 over Benson et al (U.S. Patent No. 6,334,118) in view of Hill (U.S. Published Application No. 2002/0162008A1).

Issue 2 - Whether claims 22-23 and 25-32 are unpatentable under 35 U.S.C. 103 over Benson et al (U.S. Patent No. 6,334,118) in view of Hill (U.S. Published Application No. 2002/0162008A1).

7. ARGUMENT

REJECTION OF CLAIMS AS ALLEGEDLY OBVIOUS

The Examiner has rejected claims 1-4, 6-14, 16-23 and 25-32 as allegedly unpatentable under 35 U.S.C. 103(a) in view of Benson in further view of Hill. The October 4, 2005 Office Action stated:

....Benson et al teach a method/system for licensing time-based software comprising loading time-based software onto a client machine, wherein said time-based software submits user information to an authentication server through a network/internet, submit the user information to the authentication server, determining if the user is approved, wherein if the user is approved, the authentication server activating the time-based software for an amount of time approved (see abstract, column 1, lines 28-42, 3 line 55-4 line 25, 14 lines 25-65). Benson et al fail to teach a method wherein the request including the amount of time requested by the user and wherein if the user uses the time-based software for less than the amount of time approved, reconnecting to the authenticating server crediting any remaining amount

of time back to the authentication server. However, Hill teaches method wherein the request including the amount of time requested by the user and wherein if the user uses the time-based software for less than the amount of time approved reconnecting to the authenticating server crediting any remaining amount of time back to the authentication server. (see abstract, fig 2, 4, paragraphs 0009, 0011, 0024, 0025)

The appellant respectfully disagrees with these conclusions. The appellant believes the prior art of record is deficient in that it fails to teach all of the claim limitations. Moreover, the appellant believes that, should the prior art be modified so as to contain the limitation which is presently not taught, then such prior art references would be rendered unsatisfactory for their intended purpose and/or alter their principle of operation. As such modifications are contrary to the principle of operation and would render the respective inventions unsatisfactory for their intended purpose, there can clearly be no suggestion or motivation to make such modifications. Absent such a suggestion, any rejection of the claims as allegedly obvious must fail. If any one of the above arguments is found to be persuasive, then the rejection under 35 U.S.C. 103 must be withdrawn. Consideration by the Board is courteously requested.

PRINCIPLE OF OPERATION OF THE INVENTION OF BENSON

The device of Benson (U.S. Patent No. 6,334,118) is a software rental system comprised of a rental program with imbedded software. Benson teaches the use of smart cards to produce valid audit trails which facilitate secure software rental. It is critical that the audit trails of Benson not be modified; such modification could lead to theft of the rental program. Benson's software writes an audit record to facilitate the derivation of the amount of time the rental program has been active. For example, if an audit record corresponds to a time unit of 5 minutes, 10 such records sent to the rental server by the rental program would allow the rental server to construct an audit trail showing the rental program active for 50 minutes. If the audit trail exceeds a pre-determined threshold, such a condition is communicated to the imbedded software across

the network. For the device of Benson to function satisfactorily for its intended purpose, the imbedded software must continually have access to the rental server, else the software will be unable to validate the audit trail and the rented program will be deactivated. In the example just used, the imbedded software must constantly connect to the network to access the rental server so that the audit records could be sent to the rental server or else the audit trail could not accurately reconstruct the amount of time that the software has been active. If, for any reason, the imbedded software is unable to verify the accuracy of the audit trail, the program is also deactivated. For the device of Benson to function satisfactorily for its intended purpose, the imbedded software must continually have access to the rental server, else the software will be unable to validate the audit trail and the rented program will be deactivated.

PRINCIPLE OF OPERATION OF THE INVENTION OF HILL

Hill (U.S. Published Application No. 2002/0162008A1) discloses a method for controlling access to network systems. Specifically, the methods taught by Hill permit for the allocation of bandwidth among multiple users by controlling the access the user's have to a network. Hill employs user profiles, stored on a server, wherein the profiles are comprised of user data such as an available time balance. During the time when the user is connected to the network, the available balance is debited until such time as its reaches zero. When the available balance reaches zero, the user is disconnected from the network. The available balance may be in units of time (minutes), money (dollars), or unspecified "credit" units. Clearly the software of Hill - by its very nature - requires a continual network connection as this continual network connection is what is being controlled by the invention.

Issue 1 - Whether claims 1-4, 6-14, and 16-21 are unpatentable under 35 U.S.C. 103 over Benson et al (U.S. Patent No. 6,334,118) in view of Hill (U.S. Published Application No. 2002/0162008A1).

5 **THE DISCONNECTION LIMITATION IS NOT TAUGHT OR SUGGESTED**

The appellant believes the rejection of claim 1 and its dependent claims is improper as the prior art of record fails to teach all of the claim limitations. The appellant notes that the claims at issue recite the limitation "thereafter disconnecting from said authentication server" and that such a limitation, is not
10 taught or suggested in the prior art of record. When less than all of the claim limitations are taught or suggested in the prior art, any rejection under 35 U.S.C. 103 must fail. Reference may be had to MPEP § 2143 which states:

15 To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there
20 must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations). The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in
25 the applicant's disclosure. *In re Vaeck*, 947, F.2d 488, 20 USPQ2d 1438 (Fed. Circ. 1991).

The claims at issue provide for a time-based software that is active while
30 disconnected from the authentication server. None of the prior art of record teaches such a capability. Moreover, inspection of the October 4, 2005 Office Action clearly indicates that there has *not even been an allegation* that such a limitation is taught in the prior art. Absent such a teaching, no rejection under 35 U.S.C. 103 is proper, and the instant rejection should be withdrawn. Even if, for
35 the sake of argument, such a limitation were taught in the prior art as a separate element, the prior art of record clearly cannot be combined with such a element for the reasons enunciated elsewhere in this Brief.

THE CREDITING LIMITATION IS NOT TAUGHT OR SUGGESTED

The Examiner has also asserted that Hill teaches the claim limitation of the user using the time-based software for less than the amount of time approved, the user crediting any remaining amount of time back to the authentication server. The appellant has studied the disclosure of Hill but respectfully disagrees that such a limitation is taught. The term "credit" as used by Hill, refers to non-time based units that are associated with the user's account. For example, a user may have 200 "credits" on the user account. For every 5 minutes of connection time, one "credit" is deducted from the 200 credit total. When the available credits reach zero, the user is disconnected from the network. When the user is not connected to the network, no credits are consumed. Thus, with respect to the invention of Hill, the concept of "crediting any remaining amount of time back," as recited in the instant claims, simply does not apply. If the user is connected to Hill's network, then the time is necessarily being used and there is no such thing as a "remaining amount of time" or "unused time" that may be later credited. With respect to Hill's invention, the concept of "unused time" simply does not exist. Reference may be had to paragraph 0025 of Hill which states:

For example, in one optional embodiment, the account balance is continuously debited by the gateway sever and access is terminated when the account balance reaches zero. Otherwise, the connection to the Internet system 60 is maintained until the user disconnects 34. (Emphasis added)

In no event does Hill teach the limitation of "wherein if the user uses the time-based software for less than the amount of time approved, the user crediting any remaining amount of time back to the authentication server." Absent such a teaching, the rejection under 35 U.S.C. 103 is untenable, and should be withdrawn. Moreover, and as will be discussed in more detail elsewhere in this Brief, the invention of Benson teaches the use of secure audit trails that cannot

be altered. The modification of audit trails by crediting unused time is a modification that Benson teaches away from.

5 **MODIFICATION WOULD RENDER THE INVENTION OF BENSON
UNSATISFACTORY FOR ITS INTENDED PURPOSE AND/OR CHANGE THE
PRINCIPLE OF OPERATION OF THE INVENTION**

10 In fact, not only does Benson (and the other prior art of record) not teach such a limitation, but, should the invention of Benson be modified so as to include the limitation of "thereafter disconnecting from said authentication server", Benson's invention would be rendered unsatisfactory for its intended purpose. As such, there is no suggestion or motivation to make such a modification. Therefore, the Benson reference should not be used in a rejection under 35 U.S.C. 103 wherein such a modification would be impermissibly required. Without the benefit of the Benson reference, the rejection under 35
15 U.S.C. 103 is untenable, and should be withdrawn. Reference may be had to MPEP § 2143.01 which states:

20 If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Circ. 1984)

25 Likewise, if the proposed modification would change the principle of operation of the invention, then such a modification is impermissible. A modification of this nature may not be part of a rejection under 35 U.S.C. 103. Reference may be had to MPEP § 2143.01 which states:

30 If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270, F.2d 810,
35 123 USPQ 349 (CCPA 1959)

The Benson invention relies upon a continual network connection to satisfactorily achieve its intended purpose. Similarly, the principle of operation of the Benson invention requires a continual network connection.

5 Benson's principle of operation requires continual communication between the remote rental server which hosts the audit trail and the local client machine (see column 10, line 10; and the like). At column 1, line 37 Benson states "...the software continually monitors the audit trails to determine when a threshold is exceeded." (Emphasis added) If the invention of Benson were disconnected from its supporting network, as recited in the instant claims, communication between
10 the server and client would be disrupted, and the software would not be able to verify the audit trail. Thereafter, the software would cease to function. To satisfactorily perform its intended purpose, the software application of Benson requires continual access to the audit trail to ensure the accuracy of such trail (see column 7, line 25 of Benson). Moreover, disruption of this continuous
15 access would alter the principle of operation of the invention of Benson. Such disruptions/modifications are impermissible.

20 *MODIFICATION WOULD RENDER THE INVENTION OF HILL UNSATISFACTORY FOR ITS INTENDED PURPOSE AND/OR CHANGE THE PRINCIPLE OF OPERATION OF THE INVENTION*

In a similar fashion, the invention of Hill also has a principle of operation that requires the use of a continual network connection. Disconnection of this continual connection would both alter the principle of operation of the invention and render the invention unsatisfactory for its intended purpose. Reference may
25 be had to paragraph 0035 of Hill, which states:

30 Likewise, the user's account balance may be monitored 28 and continuously debited or decremented during the period of access. This allows the ISP server 50 to disconnect 20 the user after exhaustion of the user's time or credit 32. Otherwise, the connection is maintained until the caller disconnects 34. (Emphasis added)

Clearly, neither the invention of Benson, nor the invention of Hill could be modified so as to disconnect from the network without both (1) rendering the respective inventions unsatisfactory for their intended purpose and (2) changing the principle of operation of the respective inventions.

5

THE REFERENCES TEACH AWAY FROM THEIR COMBINATION

To combine the inventions of Benson and Hill so as to credit back unused time, it would be necessary to alter the audit trails of Benson. Benson teaches away from such modifications. Reference may be had to column 7, beginning at
10 line 62 of the Benson patent. When a reference teaches away from such modifications, it is improper to perform such modifications. Reference may be had to MPEP § 2145(X)(D)(2) which states

15

It is improper to combine references wherein the references teach away from their combination. *In re Grasselli*, 713, F.2d 731, 743, 218 USPQ 769, 779 (Fed. Circ. 1983).

20

If the device of Benson were modified so as to allow the user to credit unused time, such a modification would open a security hole in Benson's invention; precisely what Benson is trying to avoid. To avoid such security breaches, Benson discloses three desirable properties; (1) no holes on the audit trail; (2) the audit trail cannot be modified; and (3) the audit trail is current. See column 8 of Benson, beginning at line 6, which states:

25

These three properties remove all incentive for an attacker to corrupt, delete, lose or otherwise abuse the audit trail 108.

30

If Benson were modified so as to enable crediting unused time back to the server (i.e. modifying the audit trail), such a modification would provide an attacker with an incentive to corrupt or otherwise abuse the audit trail of Benson. Benson specifically wishes to avoid such modifications.

Issue 2 - Whether claims 22-23 and 25-32 are unpatentable under 35 U.S.C. 103 over Benson et al (U.S. Patent No. 6,334,118) in view of Hill (U.S. Published Application No. 2002/0162008A1).

5 Claim 22 and its dependent claims are similar to claim 1 except in that claim 22 recites the additional limitation “wherein the time-based software remains activated for the amount of time requested while disconnected from the authentication server.”

10 The appellant believes the arguments with regard “Issue 1” are equally applicable with regard to “Issue 2.” The appellant respectfully reiterates each of such arguments.

15 It is also the appellant’s position that claim 22 and its dependent claims are separable from the claim set discussed under “Issue 1” as claim 22 further distinguishes from the prior art of record by including the limitation “wherein the time-based software remains activated for the amount of time requested while disconnected from the authentication server.” Such a limitation serves to even more clearly distinguish the instant invention from the prior art of record. The appellant believes that claim 1, claim 12, and their respective dependent claims are each patentable over the prior art of record. Should the Board reach an alternate conclusion, the appellant notes that the additional limitation found in claim 22 unequivocally distinguishes the instant invention from the prior art, and is therefore, separately patentable. Such claim 22, and its dependent claims, should therefore be considered separately.

25 The invention of Benson is clearly unable to “remain activated for the amount of time requested while disconnected from the authentication server.” Benson specifically teaches that his invention must “continually” communicate with the server to validate the audit trail. If the validity of the audit trail cannot be verified, then the invention of Benson specifically refuses to permit the application to be rented. This is precisely the opposite of the limitation recited in claim 22.

30 By way of illustration, and not limitation, if a user of the Benson invention purchased six hours of time from Benson’s rental server, the software will fail to

function for six hours while disconnected from the rental server. Instead, Benson's invention requires the software to "continually" communicate with the server to validate the audit trail throughout the six hours of use.

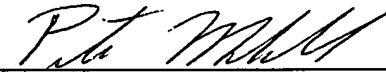
- The addition of the Hill reference does not cure this defect. In fact, the
- 5 October 4 Office Action does not even allege that either Benson or Hill enable such a function. Hill provides no disclosure, whatsoever, that would enable one skilled in the art to modify the invention of Benson so as to allow Benson's software to remain activated for the amount of time requested while disconnected from the server.

CONCLUSION

For the extensive reasons advanced above, appellant respectfully contends that each claim is patentable. Therefore, reversal of all rejections is courteously requested.

5 To the extent necessary, please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-2753 and credit any excess fees to such deposit account. If necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made.

10 Respectfully submitted,
Howard J. Greenwald P.C.

By 

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8. CLAIMS APPENDIX

1. A method for licensing time-based software comprising the steps of:
loading time-based software onto a client machine, wherein said time-
based software requests user information including an amount of time
requested by the user for using said time-based software and connects to
an authentication server through a network and submits said user
information to the authentication server; determining if the user is
approved, wherein if the user is approved, further comprising the step of:
the authentication server activating the time-based software for an amount
of time approved; thereafter disconnecting from said authentication server,
wherein if the user uses the time-based software for less than the amount
of time approved, the user crediting any remaining amount of time back to
the authentication server.
2. The method of claim 1, wherein if the user is not approved, further
comprising the step of sending a rejection message back to the software.
3. The method of claim 1, wherein the step of determining if the user is
approved further comprises the steps of: matching the user information
with a user account stored in said authentication server; and checking the
user account for a time credit amount, wherein the user is approved if the
user information matches the user account and the time credit amount is
greater than zero.
4. The method of claim 1, wherein said user information includes a user
name and a password.

5. (Canceled)

6. The method of claim 1, wherein the network comprises the Internet.

7. The method of claim 4, wherein the step of the time-based software submitting user information to the authentication server further comprises
5 submitting order information to the authentication server, said order information comprising a software product ID and a client machine IP address.

8. The method of claim 7, wherein the time-based software displays a log-in access box for requesting the user information, the log-in access box
10 including a balance checking feature for allowing the user to check a total amount of time remaining in a user account.

9. The method of claim 1, wherein if the user is approved, further comprising the step of updating a time credit amount in the authentication server.

10. The method of claim 3, wherein if the time credit is greater than or equal to
15 the amount of time requested, the amount of time approved comprises the amount of time requested.

11. The method of claim 3, wherein if the time credit is less than the amount of time requested, the amount of time approved comprises the time credit.

12. A program storage device readably by machine, tangibly embodying a
20 program of instructions executable by machine to perform the method steps for licensing time-based software comprising the steps of: loading time-based software onto a client machine, wherein said time-based software requests user information including an amount of time requested

by the user for using said time-based software and connects to an authentication server through a network and submits the user information to the authentication server; determining if the user is approved, wherein if the user is approved, further comprising the step of: the authentication server activating the time-based software for an amount of time approved; thereafter disconnecting from the authentication server, wherein if the user uses the time-based software for less than the amount of time approved, the user reconnecting the time-based software to the authentication server and crediting any remaining amount of time back to the authentication server.

13. The program storage device of claim 12, wherein the step of determining if the user is approved further comprises the steps of: matching the user information with a user account stored in said authentication server; and checking the user account for a time credit amount, wherein the user approved if the user information matches the user account and the time credit amount is greater than zero.

14. The program storage device of claim 12, wherein said user information includes a user selected user name and a user selected password.

15. (Cancelled)

16. The program storage device of claim 12, wherein the network comprises the Internet.

17. The program device of claim 12, wherein if the user is approved, further comprising the step of updating a time credit amount in the authentication server.
18. The program storage device of claim 12, wherein the step of the time-based software submitting user information to the authentication server further comprises submitting order information to the authentication server, said order information comprising a software product ID and a client machine IP address.
19. The program storage device of claim 12, wherein the time-based software displays a log-in access box for requesting the user information the log-in access box including a balance checking feature for allowing the user to check a total amount of time remaining in a user account.
20. The program storage device of claim 13, wherein if the time credit is greater than or equal to the amount of time requested, the amount of time approved comprises the amount of time requested.
21. The program storage device of claim 13, wherein if the time credit is less than the amount of time requested, the amount of time approved comprises the time credit.
22. A system for licensing time-based software comprising: a time-based software loaded onto a client machine for requesting user information from a user including an amount of time requested by the user for using said time-based software; and an authentication server for connecting to said time-based software and receiving said user information from said time-

based software, wherein said authentication server determines if the user is approved, wherein if the user is approved, the authentication server activates the time-based software for an amount of time requested; thereafter disconnecting the time-based software from the authentication server, wherein the time-based software remains activated for the amount of time requested while disconnected from the authentication server, wherein if the user uses the time-based software for less than the amount of time requested, any remaining amount of time is credited back to the authentication server by the user reconnecting the time-based software to the authentication server and crediting the remaining amount of time.

23. The system of claim 22, wherein the authentication server determines if the user is approved by matching the user information with a user account stored in said authentication server, and checking the user account for a time credit amount, wherein the user is approved if the user information matches the user account and the time credit amount is greater than zero.

24. (Canceled)

25. The system of claim 22, wherein the authentication server further receives order information from the time-based software, said order information comprising a software product ID and a client machine IP address.

26. The system of claim 23, wherein the time-based software displays a log-in access box for requesting the user information, the log-in access box including a balance checking feature for allowing the user to check a total amount of time remaining in a user account.

27. The system of claim 26, wherein if the user is approved, further comprising the step of updating a time credit amount in the authentication server.
28. The system of claim 27, wherein if the time credit amount is greater than
5 or equal to the amount of time requested, the amount of time approved consists of the amount of time requested.
29. The system of claim 28, wherein if the time credit amount is less than the amount of time requested, the amount of time approved comprises the time credit amount.
- 10 30. The method of claim 1, wherein the user is determined to be approved independent of a time and date the user makes the request for using said time-based software.
31. The program storage device of claim 12, wherein the user is determined to be approved independent of a time and date the user makes the request
15 for using said time-based software.
32. The system of claim 29, wherein the user is determined to be approved independent of a time and date the user makes the request for using said time-based software.

9. EVIDENCE APPENDIX

There is no evidence submitted under 37 CFR 1.130, 1.131 or 1.132.

Attached hereto, please find copies of the following documents:

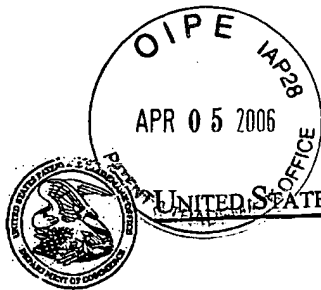
EXHIBIT A: Office Action of 10/04/2005 (9 pages)

5 EXHIBIT B: US Patent 6,334,118 (14 pages), cited in the 10/04/2005
Office Action by the Examiner.

EXHIBIT C: US Patent Application 2002/162008A1 (16 pages), cited in
the 10/04/2005 Office Action by the Examiner.

10. RELATED PROCEEDINGS APPENDIX

None



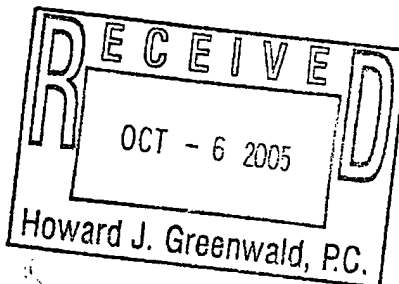
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,932	11/21/2001	Bon K. Sy	8075-2	2279
37282	7590	10/04/2005	EXAMINER	
HOWARD J. GREENWALD P.C. 349 W. COMMERCIAL STREET SUITE 2490 EAST ROCHESTER, NY 14445-2408			BACKER, FIRMIN	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.





Office Action Summary

Application No.

09/989,932

Applicant(s)

SY, BON K.

Examiner

FIRMIN BACKER

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14, 17-23 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 17-23 and 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

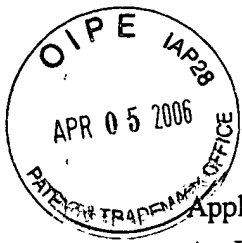
Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____



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DETAILED ACTION

Response to Amendment

1. An amendment has been filed on July 29th, 2005.
2. Claims 1, 7, 8, 12, 14, 22, 26-29 and 32 have been amendment.
3. Claims 1-4, 6-14, 17-23 and 25-32 are pending.

Response to Arguments

4. Applicant's arguments with respect to claims 1-4, 6-14, 17-23 and 25-32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6-14, 17-23 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson et al (U.S. Patent No. 6,334,118) in view of Hill (U.S. PG Pub No. 200/016208).

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7. As per claim 1, 6, 12, and 22 Benson et al teach a method/system for licensing time-based software comprising loading time-based software onto a client machine, wherein said time-based software submits user information to an authentication server through a network/internet, submit the user information to the authentication server, determining if the user is approved, wherein if the user is approved, the authentication server activating the time-based software for an amount of time approved (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*). Benson et al fail to teach a method wherein the request including the amount of time requested by the user and wherein if the user uses the time-based software for less than the amount of time approved reconnecting to the authenticating server crediting any remaining amount of time back to the authentication server. However, Hill teaches method wherein the request including the amount of time requested by the user and wherein if the user uses the time-based software for less than the amount of time approved reconnecting to the authenticating server crediting any remaining amount of time back to the authentication server (*see abstract, fig 2, 4, paragraphs 0009, 0011, 0024, 0025*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Benson et al's teaching to include Hill's method wherein the request including the amount of time requested by the user and wherein if the user uses the time-based software for less than the amount of time approved reconnecting to the authenticating server crediting any remaining amount of time back to the authentication server because this would have provide a system of continuous use by the client wherein the client get full benefit for time charge for..

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8. As per claim 2, Benson et al teach a method/system wherein if the user is not approved, further comprising the step of sending a rejection message back to the software. (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

9. As per claim 3, 13, and 23, Benson et al teach a method/system of determining if the user is approved matching the user information with a user account stored in said authentication server; and checking the user account for a time credit amount, wherein the user is approved if the user information matches the user account and the time credit amount is greater than zero (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*)..

10. As per claim 4 and 14, Benson et al teach a method/system wherein said user information comprises a user name, a password, and an amount of time requested (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*)..

11. As per claim 7, 18, and 25 Benson et al teach a method/system wherein the step of the time-based software submitting user information to the authentication server further comprises submitting order information to the authentication server, said order information comprising a software product ID and a client machine IP address (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*)..

12. As per claim 8, 19, and 26, Benson et al teach a method/system wherein the time-based software displays a log-in access box for requesting the user information, the log-in access box

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including a balance checking feature for allowing the user to check a total amount of time remaining in a user account (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

13. As per claim 9, 17 and 27, Benson et al teach a method/system wherein if the user is approved, further comprising the step of updating a time credit amount in the authentication server (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

14. As per claim 10, 20 and 28 Benson et al teach a method/system wherein if the time credit is greater than or equal to the amount of time requested, the amount of time approved comprises the amount of time requested (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

15. As per claim 11, 21, 29, Benson et al teach a method/system wherein if the time credit is less than the amount of time requested, the amount of time approved comprises the time credit (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

16. As per claims 30-32, Benson et al teach a method wherein the user is determined to be approved independent of a time and data the user makes the request for using the software (*see abstract, column 1 lines 28-42, 3 line 55-4 line 25, 14 lines 25-65*).

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (*see form 892*).

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

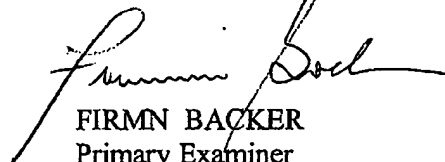
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **FIRMIN BACKER** whose telephone number is **571-272-6703**. The examiner can normally be reached on Monday - Thursday 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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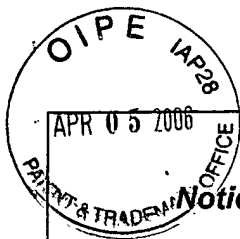
Page 7

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



FIRMN BACKER
Primary Examiner
Art Unit 3621

September 29, 2005



Notice of References Cited

Application/Control No.

09/989,932

Applicant(s)/Patent Under
Reexamination
SY, BON K.

Examiner

FIRMIN BACKER

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Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-2002/0162008 a1	10-2002	Hill, Vincent	713/200
	B	US-5,774,652 a	06-1998	Smith, Perry	726/20
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N	WO 2004042515 A2	05-2004	World Intellect	MAXWELL, SCOTT KEVIN	G06F 0/
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.